

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Vista III Media, LLC	)	File No. EB-02-TS-285
	)	
Operator of Cable Systems in:	)	
	)	
Aberdeen, Mississippi	)	
Holly Springs, Mississippi	)	
Nettleton, Mississippi	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: February 2, 2004****Released: February 4, 2004**

By the Director, Office of Homeland Security, Enforcement Bureau:

1. In this *Order*, we grant the request of Vista III Media, LLC ("Vista") to extend the temporary, 12-month waivers of Section 11.11(a) of the Commission's Rules ("Rules") previously granted for the three above-captioned cable television systems.<sup>1</sup> Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>2</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>3</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>4</sup> In 1997, the

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<sup>1</sup> *Vista III Digital Media Systems, L.L.C.*, 17 FCC Rcd 20864 (Enf. Bur., Tech. & Pub. Safety Div., 2002) ("Waiver Order").

<sup>2</sup> 47 C.F.R. § 11.11(a).

<sup>3</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

Commission amended the EAS rules to provide financial relief for small cable systems.<sup>5</sup> The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>6</sup> However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>7</sup> In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.

3. On July 2, 2002, Vista filed a request for temporary, 18-month waivers of Section 11.11(a) for five small rural cable systems in Aberdeen, Booneville, Holly Springs, Nettleton and New Albany, Mississippi. In its waiver request, Vista stated that these cable systems served between 1,431 and 4,406 subscribers. In support of its waiver request, Vista estimated that it would cost a total of \$46,000 to install EAS equipment at the five cable systems. Vista asserted that the cost to install EAS equipment at these cable systems would impose a substantial financial hardship on it. Additionally, Vista noted that it intended to eliminate the five cable system headends at the end of 2003 by interconnecting the systems with two other cable system headends. On October 25, 2002, we granted Vista temporary, 12-month waivers of Section 11.11(a) for the five cable systems.<sup>8</sup> We concluded that the financial data and other information submitted by Millennium did not justify a waiver period of longer duration for the five cable systems.

4. On September 30, 2003, Vista filed a request for temporary, nine-month extensions to the 12-month waivers granted in the *Waiver Order* for the three captioned cable systems. Vista states that the consolidation project for the captioned systems will not be completed before the October 1, 2003 expiration date of the 12-month waivers. Vista notes that a franchising agreement and local government approvals of permits delayed completion of the interconnection plans for the captioned cable systems. Vista indicates that it expects to complete interconnection of the Aberdeen and Nettleton systems to the Amory, Mississippi headend prior to the end of the first quarter of 2004 and to complete the interconnection of the Holly Springs system to the Guntown, Mississippi headend prior to the end of June 30, 2004. Additionally, Vista submits updated financial data for these cable systems.

5. Based on the additional financial data and other information submitted by Vista, we conclude that a nine-month extension of the temporary, 12-month waiver of Section 11.11(a) for the Holly Springs cable system is warranted. However, since Vista expects to complete interconnection of the Aberdeen and Nettleton systems to the Amory headend by the end of the first quarter of 2004, we do not believe that nine-month extensions are warranted for these systems. Rather, we conclude that six-

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<sup>5</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997).

<sup>6</sup> *Id.* at 15512-13.

<sup>7</sup> *Id.* at 15516-15518.

<sup>8</sup> 17 FCC Rcd at 20864.

month extensions of the temporary, 12-month waivers of Section 11.11(a) for the Aberdeen and Nettleton cable systems are warranted.<sup>9</sup>

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b), 0.311 of the Rules,<sup>10</sup> Vista III Media, LLC **IS GRANTED** a waiver of Section 11.11(a) of the Rules until April 1, 2004 for the Aberdeen and Nettleton, Mississippi cable television systems and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until July 1, 2004 for the Holly Springs, Mississippi cable television system.

7. **IT IS FURTHER ORDERED** that Vista III Media, LLC place a copy of this waiver extension in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Vista III Media, LLC, J Christopher Redding, Esq., Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036-6802.

FEDERAL COMMUNICATIONS COMMISSION

James A. Dailey  
Director, Office of Homeland Security  
Enforcement Bureau

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<sup>9</sup> The six-month waiver will extend from October 1, 2003, until April 1, 2004, and the nine-month waiver will extend from October 1, 2003, until July 1, 2004. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

<sup>10</sup> 47 C.F.R. §§ 0.111, 0.204(b), 0.311.